

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

UNITED STATES OF AMERICA,

-vs-

ANDREI STEPHANOVICH BORGHERIU,

Plaintiff,

Defendant.

Case No. 4:22-CR-6040-SAB-1

CRIMINAL MINUTES

DATE: FEBRUARY 10, 2025

LOCATION: YAKIMA, WA

FINAL PRETRIAL CONFERENCE

JURY SELECTION

JURY TRIAL – DAY ONE

**CHIEF JUDGE STANLEY A.
BASTIAN**

Michelle Fox Courtroom Deputy	01 Law Clerk	Emma Garkavi Svetlana Kupriyanova Interpreters	Kimberly Allen Court Reporter
Frieda Zimmerman Jeremy Kelley Government Counsel		Justin Lonergan Nick Mirr Defense Counsel	
United States Probation Officer:			

☒ **Open Court**

☐ **Chambers**

☐ **Telecon/Video**

Defendant present and out of custody of the U.S. Marshal.

Interpreters sworn in by the Court.

9:30 am - Final Pretrial Conference:

Court confirms that counsel are ready to proceed to trial. F. Zimmerman estimates 1 ½ day of witnesses for the government. J. Lonergan estimates a 4-day trial.

Court discusses voir dire and summarizes procedures. Counsel will have 20 minutes each side.

[X] ORDER FORTHCOMING

CONVENED: 9:30 A.M. 10:45 A.M. 1:30 P.M.	ADJOURNED: 10:15 A.M. 12:25 P.M. 5:00 P.M.	TIME: 45 MIN. 1 HR. 40 MIN. 3 HRS. 30 MIN. TOTAL: 5 HRS. 55 MIN	
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Motion to Dismiss Counts one and two. Motion is untimely, oral argument is not necessary. Court rules on motion. Court DENIES Motion to Dismiss.

Motions in Limine: Interest rate – Deny. Government will be allowed to describe program. Inform the government to tailor evidence Re: McHard – Deny.

Exclude evidence Re: credit report. Court will hear argument.

J. Kelley presents argument. The report is Exh. 5.

J. Lonergan presents argument. Court questions counsel. J. Lonergan responds. Court questions counsel – what is the harm. J. Lonergan responds. Court questions counsel. Objecting to one section. J. Lonergan responds.

Court RESERVES ruling. Motion is denied until discussed at trial.

Motion in Limine Re: repayment of loan – Deny. Repayment is not relevant. The charge is wire fraud. Court asks if it impacts forfeiture.

J. Kelley does not believe it will impact forfeiture. It may be relevant for restitution. J. Kelley presents argument.

N. Mirr presents argument. Court questions counsel. N. Mirr responds and continues argument. Court asks how is the letter relevant? N. Mirr responds. Court Denies Motion.

Court discusses trial procedures. One alternate – 13 jurors. Back strikes will be allowed. Exclude witnesses during trial. Side bar discussed. The Court asks to have defendant waive his presence during side bar matters. J. Lonergan puts on the record that defendant does waive his presence for side bar matters. Court asks counsel to share witnesses and exhibits for the following day.

ECF No. 125 – should not be filed ex parte. Needs to be filed correctly.

ECF No. 135 – Stipulation. Does this need to be discussed. When should they be read.

F. Zimmerman asks to read the stipulations in at the end of government case.

Exhibit stipulations. F. Zimmerman understands that they are authenticate but may still have relevancy objections. J. Lonergan does not have any additional comments.

Court discusses reading the Indictment to the jury. F. Zimmerman does not believe it is necessary. J. Lonergan presents argument. Court states it will be in the instructions.

N. Mirr discusses Exh. No. 125.

Court discusses forfeiture. J. Lonergan states it has not been decided yet. Court asks counsel to make a decision by tomorrow morning.

Court gives preliminary hours for trial. Hoping to get jury and handle opening statements. 8:30 am to 5:00 pm.

Recess: 10:15 am – 10:45 am

Court outlines the no show jurors: 4, 7, 10, 11, 19, 21, 39

Government does not have any additional issues.

N. Mirr presents argument on 404(b) evidence from government's trial brief. Not relevant. J. Kelley presents argument. Court Denies Motion. Evidence is relevant.

11:00 am - Jury selection begins.

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Court introduces the interpreters and staff.

Court advised jury panel of length of trial. Summary of case read to the jury panel. Courtroom introductions and names of witnesses read to the jury panel.

Oath of Voir Dire administered to all prospective jurors.

Voir Dire conducted by the Court.

Recess: 12:25 pm – 1:30 pm

Voir Dire conducted by the Court.

Voir Dire by F. Zimmerman.

Voir Dire by J. Lonergan.

Voir Dire by F. Zimmerman.

Voir Dire by J. Lonergan.

Jury recess: 3:00 pm

Challenges for Cause taken outside the presence of jury.

Court suggests for cause Nos.: 1, 2, 6, 32.

F. Zimmerman no objections to excusing the above jurors. J Lonergan no objection to excusing the above jurors.

F. Zimmerman has no for cause challenges.

J. Lonergan presents argument on challenge for cause on No. 30. F. Zimmerman objects to challenge for cause. Court DENIES challenge for cause on No. 30. J. Lonergan presents argument on challenge for cause on No. 24. F. Zimmerman objects. Court DENIES challenge for cause on No. 24. J. Lonergan presents argument on challenge for cause on No. 38. F. Zimmerman objects. Court GRANTS challenge for cause on No. 38. J. Lonergan presents argument on challenge for cause on No. 34. F. Zimmerman objects. Court DENIES challenge for cause on No. 34.

Court excused the following jurors for cause: 1, 2, 6, 32, 38.

Jury reconvenes: 3:20 pm

Preemptory challenges made.

Jury excused to argue a Batson challenge. 3:43 pm

N. Mirr presents argument on 8, 16 and 18 as Batson challenges. They were struck by the government. F. Zimmerman presents argument on why the jurors were struck.

Court rules. DENY Motion. Defendant did not make a prima facie case.

Court summarizes the jurors selected. 5, 12, 13, 14, 15, 20, 23, 25, 26, 33, 36, 37, 41.

Government agrees. Defense agrees.

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Jury reconvenes: 3:50 pm

Court addresses jury. Court thanks the jury.

Jury selected.

Remaining jurors are excused: 4:00 pm

Court addresses jury selected.

Oath administered to the empaneled jurors.

Court outlines the schedule. Court's schedule will be 8:30 am – 5:00 pm.

Jury Recess: 4:06 pm – 4:12 pm

Court remained on the bench in the courtroom.

Cour gives preliminary instructions to the jury.

Opening statement by F. Zimmerman.

Opening statement by N. Mirr.

Court addresses jury and counsel. Witnesses will begin tomorrow morning.

A juror requests to start at 9:00 am. Court will begin tomorrow at 9:00 am.

N. Mirr presents argument regarding exhibits. Agree to stipulate to all the exhibits offered in the stipulation.
Court will review the Stipulation and indicate the exhibit numbers tomorrow morning.

N. Mirr alerts the Court that a juror is in their hotel and he said good morning to him not knowing he was a juror. Court will remind jury tomorrow morning.

Court will reconvene tomorrow morning with counsel 8:45 am.